

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF PUBLIC SAFETY,,)

Petitioner,)

vs.)

No. 12-1897 PO

NIDAL OTHMAN,)

Respondent.)

DECISION

The Director of the Department of Public Safety (“the Director”) has cause to discipline Nidal Othman’s license as a peace officer because he committed a criminal offense.

Procedure

On October 23, 2012, the Director filed a complaint seeking to discipline Othman’s license as a peace officer. Othman was served with a copy of our notice of complaint/notice of hearing on November 1, 2012, and he filed an answer on November 14, 2012. On May 24, 2013, the parties filed a joint motion for consent order, joint stipulation of facts and conclusions of law, and waiver of hearing. Our Regulation 1 CSR 15-3.446(3) provides that we may decide this case without a hearing if the parties file such a stipulation. The following facts are undisputed.

Findings of Fact

1. Othman holds a peace officer license.
2. On May 2, 2011, Othman committed the crimes of driving while intoxicated and operating a motor vehicle in a careless and imprudent manner when he operated his motor vehicle in an intoxicated manner and failed to operate the vehicle at a rate of speed so as not to endanger the property of another or the life or limb of any person, or to exercise the highest degree of care.
3. On August 22, 2012, Othman pled guilty to one Class B misdemeanor charge of driving while intoxicated – alcohol, in violation of § 577.010,¹ and one Class B misdemeanor charge of operating a motor vehicle in a careless and imprudent manner, in violation of § 304.012, RSMo 2000.

Conclusions of Law

We have jurisdiction over this matter. Section 590.100.3. The Director has the burden of proof to show by a preponderance of the evidence that there is cause to discipline Othman's peace officer license. *See Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012). A preponderance of the evidence is evidence showing, as a whole, that “the fact to be proved [is] more probable than not.” *Id.* at 230 (*quoting State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App. W.D. 2000)).

Section 590.080.1 authorizes discipline as follows:

The director shall have cause to discipline any peace officer licensee who:

* * *

(2) Has committed any criminal offense, whether or not a criminal charge has been filed[.]

¹ Statutory references are to the Revised Statutes of Missouri, Supp. 2012, unless otherwise indicated.

Othman and the Director have stipulated that Othman committed two criminal offenses, and that there is cause to discipline his license as a peace officer. Based on the stipulated facts, we agree. There is cause for discipline under § 590.080.1(2).

Summary

We find cause to discipline Othman's license. We cancel the hearing.

SO ORDERED on May 28, 2013.

/s/ Karen A. Winn
KAREN A. WINN
Commissioner